

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

REGMON L. HAWKINS, *individually  
and on behalf of all others similarly situated,*

*Plaintiff,*

*v.*

S2VERIFY, *a foreign limited liability  
company,*

*Defendant.*

Case No. 3:15-cv-03502 WHA

**[PROPOSED] ORDER OF  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: February 6, 2017

Time: Noon

Place: Courtroom 8, 19th Floor

Hon. William H. Alsup

**CLASS ACTION  
JURY TRIAL DEMANDED**

**[PROPOSED] ORDER OF FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

Before the Court is the Unopposed Motion for Final Approval of Class Action Settlement and Memorandum of Law in Support (the “Motion for Final Approval,” Dkt. \_\_\_\_ ) and the Unopposed Motion for Attorneys’ Fees, Expenses, and Class Representative Service Award (the “Fees Motion,” Dkt. 105) filed by Plaintiff Regmon Hawkins. The Parties previously submitted an executed settlement agreement (Dkt. 102-1, the “Settlement Agreement”). The Court has reviewed the Settlement Agreement, the Fees Motion, the Motion for Final Approval, and the arguments in support of the Motions. The Court finds that the proposed Settlement is appropriate for final approval, and the requested awards should be granted, and finds as follows:

1. Class Members were provided with notice of the settlement in the manner and form set forth in the Settlement Agreement, as reflected in the submissions by Class Counsel and the Class Administrator. Notice was also provided to pertinent state and federal officials. The notice plan was reasonably calculated to give “notice in a reasonable manner to all class members who would be bound by the proposal.” FED. R. CIV. P. 23(e)(1). The notice plan met the requirements of Rule 23 and due process.

2. The settlement is entitled to an initial presumption of fairness. It was reached following

1 more than a year of contentious litigation, which culminated in a mediated settlement conference  
2 before Magistrate Judge Corley. The settlement is the result of adversarial, arm's-length  
3 negotiations between the parties and the terms and conditions of the settlement are fair, adequate  
4 and reasonable when balanced against the risks of further litigation on the released claims. At the  
5 time the settlement was negotiated, counsel were reasonably able to evaluate their respective  
6 positions. The Settlement will avoid additional costs to all parties as well as the delay and risks that  
7 would be presented by further prosecution of this litigation.

8 3. The Court finds that the settlement is fair, reasonable and adequate. Accordingly,  
9 pursuant to Rule 23(e) of the Federal Rules of Civil Procedure the Settlement Agreement is finally  
10 approved and shall be consummated in accordance with its terms.

11 4. In reaching this conclusion, the Court considered, *inter alia*, the following: (1) the  
12 strength of the plaintiff's case; (2) the risk, expense, complexity, and likely duration of further  
13 litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered  
14 in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the  
15 experience and view of counsel; (7) the presence of a governmental participant; and (8) the  
16 reaction of the class members of the proposed settlement." *In re Online DVD-Rental Antitrust*  
17 *Litig.*, 779 F.3d 934, 944 (9th Cir. 2015) (quoting *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566,  
18 575 (9th Cir.2004)). The factors "are not exclusive, and some factors may warrant more weight  
19 than others depending on the circumstances." *Akaosugi v. Benihana Nat. Corp.*, No. C 11-01272  
20 WHA, 2013 WL 269083, at \*1 (N.D. Cal. Jan. 24, 2013) (Alsup, J.) (citing *Officers for Justice*, 688  
21 F.2d at 625.).

22 5. The reaction of Class Members in this case was particularly positive, with only three  
23 Class Members opting out and no Class Members objecting. The Court grants the request for  
24 exclusion filed by the three Class Members identified in Exhibit B to the Declaration of Steve Platt  
25 of American Legal Claims Service, filed as part of the final approval motion on January \_\_\_\_, 2017  
26 (Dkt. \_\_\_\_). Their rights shall not be affected by the settlement and they shall not receive any of the  
27 benefits of the settlement.

28 6. Upon entry of this Order, the Class Members, except for those who returned valid

1 requests for exclusion, shall be bound by the terms set forth in the Settlement Agreement. They  
2 shall be deemed to have released their claims as set forth in the Settlement Agreement.

3 7. The Court finally approves the method of allocation and distribution of the Settlement  
4 Fund set forth in the Settlement Agreement, which includes provisions for the payment of Class  
5 Administrator expenses, distribution of check awards to eligible Class Members, and a service  
6 award to Plaintiff Regmon L. Hawkins, all as approved by the Court.

7 8. The Court finally appoints American Legal Claim Services (“ALCS”) as the class  
8 administrator to perform the duties assigned to it in the Settlement Agreement.

9 9. The Court finds that the requested award of attorneys’ fees to Class Counsel, is “fair,  
10 reasonable, and adequate.” *Taylor v. W. Marine Products, Inc.*, No. 13-04916 WHA, 2015 WL  
11 2452902, at \*1 (N.D. Cal. May 21, 2015) (Alsup, J.) (citing *Powers v. Eichen*, 229 F.3d 1249, 1256  
12 (9th Cir.2000)). The requested award of 25% of the Settlement Fund constitutes the “benchmark  
13 award” within the 9th Circuit. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998). After  
14 performing the lodestar cross-check of the benchmark, the Court is persuaded that the requested  
15 fee should be awarded. It is therefore **ORDERED** that Class Counsel Caddell & Chapman and  
16 DHF Law are awarded attorneys’ fees in the total amount of \$272,687.50, to be paid out of the  
17 Settlement Fund in accordance with the terms of the Settlement.

18 10. The Court finds that the requested award of litigation expenses to Class Counsel is  
19 reasonable, necessary and directly related to the prosecution of the action. *Vincent v. Hughes Air*  
20 *W., Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); FED. R. CIV. P. 23(h) (permitting recovery of “costs  
21 that are authorized by law or by the parties’ agreement.”) The FCRA authorizes recovery of “the  
22 costs of the action together with reasonable attorney’s fees as determined by the court.” 15 U.S.C.  
23 § 1681n(a)(3). It is therefore **ORDERED** that Caddell & Chapman is awarded expenses in the  
24 amount of \$39,354.70, and DHF Law is awarded expenses in the amount of \$1,232.81, for a total  
25 expense award of \$40,587.51, to be paid out of the Settlement Fund in accordance with the terms  
26 of the Settlement.

27 11. The Court finds that the service award requested by lead Plaintiff Regmon L. Hawkins  
28 is proper to compensate him for the time and effort he expended pursuing this litigation as well as

1 the loyalty he demonstrated to the Class. *See Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir.2003).  
2 It is therefore **ORDERED** that Regmon L. Hawkins is awarded a service award in the amount of  
3 \$1,000, to be paid out of the Settlement Fund in accordance with the terms of the Settlement.

4 12. The Court finds that in accordance with the Settlement Agreement, ALCS should be  
5 paid their costs of notice and administration. It is therefore **ORDERED** that ALCS is awarded  
6 \$16,581.66, to be paid out of the Settlement Fund in accordance with the terms of the Settlement.

7 13. Section 8.2 of the Settlement provides for a payment to a *cy pres* beneficiary if residual  
8 funds remain after mailing and re-mailing of checks to Class Members. The Court approves  
9 Volunteers of America, the *cy pres* beneficiary designated by the parties, as recipient of such funds  
10 in accordance with the Settlement.

11 14. Under Fed. R. Civ. P. 54(b), the Court enters final judgment on and dismisses with  
12 prejudice any and all claims under 15 U.S.C. §§ 1681c and 1681n of the FCRA arising out of their  
13 consumer reports prepared by S2Verify and which Plaintiff asserts on behalf of the certified Class.  
14 This final judgment shall not bind any Class Members who timely opted out. The Clerk of the  
15 Court is ordered to enter this final judgment pursuant to Rule 54(b) of the Federal Rules of Civil  
16 Procedure as to all claims against Defendant S2Verify under 15 U.S.C. §§ 1681c and 1681n of the  
17 FCRA.

18 15. Without in any way affecting the finality of this order and final judgment as to the  
19 Parties with regard to the settled claims, the Court retains and reserves jurisdiction over the  
20 litigation and the parties to the settlement to enter any future orders as may be necessary for the  
21 implementation, enforcement, construction and interpretation of the Settlement Agreement as to  
22 the released claims.

23 IT IS SO ORDERED.

24  
25 Dated: \_\_\_\_\_

26 By: \_\_\_\_\_  
27 Hon. William Alsup  
28 United States District Judge